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Date:	APRIL 28, 2005
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	U.S. PATENT AND TRADEMARK OFFICE
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From:	FRANK C. NICHOLAS
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Client/Matter No.:	AUS920010138US1 (9000/25)
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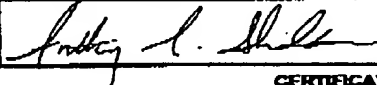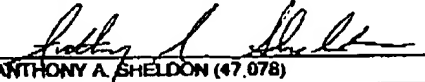
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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Attorney Docket No.	AUS920010138US1 (9000/25)
Application Number	09/843,068
Filing Date	APRIL 26, 2001
First Named Inventor	RICHARD D. HOFFMAN
Group Art Unit	2179
Examiner	CAMPBELL, JOSHUA D.

ENCLOSURES *(check all that apply)*

- ☐ Amendment
  - ☐ After Final
  - ☐ Affidavits/declaration(s)
- ☐ Status Letter
- ☐ Petition for Extension of Time Request (dup)
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement, PTO-1449
- ☐ Certified Copy of Priority Document(s)
- ☐ Response to Missing Parts/ Incomplete Application

- ☐ Assignment Papers
- ☐ Drawing Sheets
- ☐ After Allowance Communication to Group
- ☐ Petition Routing Slip (PTO/SB/69) and Accompanying Petition
- ☐ To Convert a Provisional Application
- ☐ Change of Correspondence Address
- ☐ Terminal Disclaimer
- ☐ Small Entity Statement
- ☐ Request of Refund

- ☐ Appeal Communication to Board of Appeals and Interferences
- ☒ Appeal Brief
- ☐ Proprietary Information
- ☐ Post Card Receipt
- ☐ Additional Enclosure(s) (please identify below)
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	Claims After Amendment		Highest No Previously Paid For	Present Extra	Small Entity		or	Large Entity	
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Total		Minus		0	x $25=	0		x $50=	
Indep.		Minus		0	x $100=	0		x $200=	
First Presentation of Multiple Dep. Claim					+$180=	—		+ $360=	
					total add'l fee	$ 0		total add'l fee	$ 0

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	ANTHONY A. SHELDON Registration No. 47,078 CARDINAL LAW GROUP 1603 Orrington Avenue, Suite 2000 Evanston, IL 60201		
Signature	*[signature]*	Date	April 28, 2005

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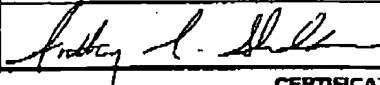|			April 28, 2005
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Examiner	CAMPBELL, JOSHUA D

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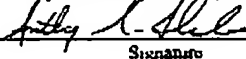|					
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☐	After Final	☐	Drawing Sheets	☒	Appeal Brief
☐	Affidavits/declaration(s)	☐	After Allowance Communication to Group		
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☐	Express Abandonment Request	☐	Terminal Disclaimer	☐	
☐	Information Disclosure Statement. PTO-1449	☐	Small Entity Statement	☐	
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First Presentation of Multiple Dep. Claim					+$180=	—		+ $360=	
					total add'l fee	$ 0		total add'l fee	$ 0

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	ANTHONY A. SHELDON Registration No. 47,078 CARDINAL LAW GROUP 1603 Orrington Avenue, Suite 2000 Evanston, IL 60201		
Signature	*[signature]*	Date	April 28, 2005

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Signature	*[signature]* ANTHONY A. SHELDON (47,078)	Date.	April 28, 2005

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PATENT
Case No. AUS920010138US1
(9000/25)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re patent application of:)	
)	
RICHARD D. HOFFMAN, ET AL.)	
)	Examiner: CAMPBELL, JOSHUA D.
Serial No.: 09/843,068)	
)	Group Art Unit: 2179
Filed: APRIL 26, 2001)	
Title: METADATA GRAPHICAL)	
USER INTERFACE)	

APPEAL BRIEF

Mail Stop Appeal Briefs - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Appellants herewith respectfully present their Brief on Appeal as follows:

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1. REAL PARTY IN INTEREST

The real party in interest is Assignee INTERNATIONAL BUSINESS
MACHINES CORPORATION, by virtue of an assignment executed by the inventors on
April 18, 19, and 23, 2001 and filed with the United States Patent and Trademark Office
on April 26, 2001, recorded at reel number 011761 frame number 0873.

2.   RELATED APPEALS AND INTERFERENCES

Appellants and the undersigned attorneys are not aware of any appeals or any interferences which will directly affect or be directly affected by or having a bearing on the Board's decision in the pending appeal.

3.   STATUS OF CLAIMS

Claims 1-18 are currently pending and stand finally rejected as anticipated by "Microsoft Excel."

Claims 1-18 are the claims on appeal. *See,* Appendix.

4.   STATUS OF AMENDMENTS

A reply under 37 C.F.R. §1.111 was filed on October 4, 2004 and entered into the application. A notice of appeal was filed March 22, 2005 in response to the December 23, 2004 office action.

5.   SUMMARY OF CLAIMED SUBJECT MATTER

The invention relates to a method for generating metadata objects. *See,* Specification of United States Patent Application, 09/843,068 at page 1, lines 7-8. A metadata object is data for describing data objects. *See,* Specification of United States Patent Application, 09/843,068 at pages 1-3.

In the inventive method, a spreadsheet including metadata information is displayed and a command is provided to trigger a conversion of the spreadsheet into a comma separated value file.

FIG. 4 reproduced below graphically illustrates an exemplary worksheet 60 including a metadata directive column 63 and a metadata information grid 64. *See,* Specification of United States Patent Application, 09/843,068 at page 6, lines 10-27.

60 →

	ITEM 61a	MENU BAR 61				
	ICON 62a	TOOLBAR 62				
	COL A	COL B	COL C	COL D	COL E	COL F
R1	C1	C11	C12	C13	C14	C15
R2	C2	C16	C17	C18	C19	C20
R3	C3	C21	C22	C23	C24	C25
R4	C4	C26	C27	C28	C29	C30
R5	C5	C31	C32	C33	C34	C35
R6	C6	C36	C37	C38	C39	C40
R7	C7	C41	C42	C43	C44	C45
R8	C8	C46	C47	C48	C49	C50
R9	C9	C51	C52	C53	C54	C55
R10	C10	C56	C57	C58	C59	C60

63   64
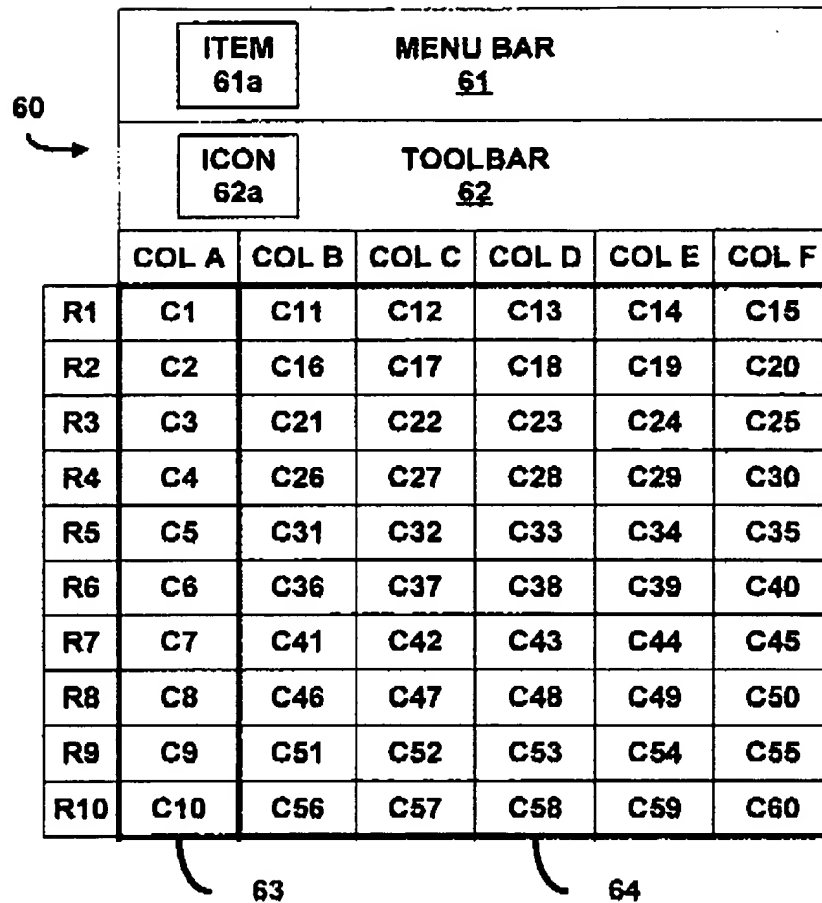
FIG. 4

6.   GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-18 were rejected under 35 U.S.C. §102(b) by "Microsoft Excel."

7.   GROUPING OF CLAIMS

Claims 1-18 stand or fall with claim 1.

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8.   ARGUMENTS

A. MS Excel does not disclose metadata

Specifically, during examination, Examiner Campbell must interpret claims 1-18
as broadly as their terms reasonably allow. This means that the terms of claims 1-18
must be given ordinary and customary meaning attributed to them by those having
ordinary skill in the art of the present application unless the Appellant has clearly set
forth a definition of one or more terms of claims 1-18 that is different than their ordinary
and customary meaning in the art. See, MPEP §2111.01.

The Appellant respectfully asserts that the well known ordinary and customary
meaning of the term "metadata" is data for describing other data. The Appellant
reinforced this definition by defining the term "metadata objects" as being data for
describing data objects. See, U.S. Patent Application Serial No. 09/843,068 at page 1,
lines 2 and 3. The Appellant further respectfully asserts that the data illustrated in FIG.
1 of *Microsoft Excel 1999* is not metadata as known in the art, but no more than data that
can be described by metadata. Thus, *Microsoft Excel 1999* can not be interpreted by
Examiner Campbell as teaching "metadata objects", "metadata information" and
"metadata directives" as recited in claims 1-18.

Other definitions under the well known ordinary and customary meaning of the
term metadata include, for example:

"descriptive statistical information about the elements of a set of data"

-   Encarta

"data about data"

-   Dictionary.com

"Metadata is data about data"

-   Wikipedia

"Information about data, or more specifically, the descriptive information
provided in meta tags in an HTML or XML document header about that
document."

- Interactive Glossary of Internet Terms

Thus, in light of the ordinary usage of the word, as well as Appellant's own definition of "metadata," the Examiner's attempt to define metadata in contrast to its accepted meaning cannot support a continued rejection of the claims.

Since the reference does not disclose each and every claimed element, the §102(b) rejections are unsupported, and these claims should proceed to allowance.

B. MS Excel is not prior art

The MPEP is quite clear that a reference is a "printed publication" as required by §102(b) only "upon a satisfactory showing that such document has been disseminated or otherwise made available to the extent that person interested and ordinarily skilled in the subject matter or art, exercising reasonable diligence, can locate it." *See* MPEP 2128, *In re Wyer*, 655 F.2d 221 (CCPA 1981).

However, the "MS Excel" reference cited against this application is, or at least appears to be (i.e. "This product is licensed to JCampbell USPTO"), merely a printout of a screen shot of the Examiner's personal computer. The Examiner does not even allege that a single other person, much less one of ordinary skill in the art, has access to his personal computer at the PTO.

The Examiner's inclusion of the "About Microsoft Excel" window appears targeted to show that the program was available more than one year prior to the filing date of this application on April 26, 2001.

However, the copyright dates of a computer program are irrelevant to its status as a printed publication. Further, the screenshot illustrating the copyright dates does not show the allegedly anticipatory method in action, and therefore calls the anticipatory nature of the alleged reference into question.

While the Examiner may argue that he need not prove anyone actually looked at the document, he must show both that someone could have (i.e. see MPEP 2128.01) and the date that the publication is available as a reference. The Examiner has failed on both counts here. First, the Examiner has not alleged that his computer was available to the public prior to April 26, 2001. Second, the Examiner has not alleged any dates that the publications were available to the public.

Additionally, there is a distinct difference between status as a *printed publication* under 35 U.S.C. and under *copyright* law. Specifically, 17 U.S.C. §102 states that "copyright protection subsists, in accordance with this title, in original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device." Thus, the fact that a document claims copyright *does not mean* that the document has been disseminated or otherwise made available.

Furthermore, that a document claims copyright to a date more than one year prior to the instant filing date does not mean that a particular portion of the document was included in the copyrighted work at the time that the copyright notice was affixed. For example, the Examiner argues without evidentiary support that this version of MS Excel was "released in 1999." However, there is not a scintilla of evidence in the record that this printed publication existed more than one year prior to the filing of this application. Furthermore, that MS Excel was released in 1999 is irrelevant – the functionality that allegedly anticipates the instant claims would have had to be in the '1999' iteration of MS Excel. This fact alone renders the Examiner's §102(b) rejection unsupportable.

Since "MS Excel" does not qualify as prior art, the §102(b) rejections are unsupported, and these claims should proceed to allowance.

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SUMMARY

The Appellants respectfully submit that claims 1-18 fully satisfy the
requirements of 35 U.S.C. §§102, 103 and 112. In view of the foregoing, favorable
consideration and early passage to issue of the present application is respectfully
requested.

Dated: **April 28, 2005**

Respectfully submitted,
Richard D. Hoffman, et al.

ANTHONY A. SHELDON,
Registration No. (47,078)
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CLAIMS APPENDIX

1.   A method for generating metadata objects, said method comprising:

displaying a spreadsheet including metadata information therein; and

providing a command to trigger a conversion of the spreadsheet into a comma separated value file.

2.   The method of claim 1, further comprising:

converting the spreadsheet into the comma separated value file in response to an activation of the command; and

parsing the comma separated value file to thereby generate the metadata objects from the metadata information.

3.   The method of claim 1, further comprising:

Inputting the metadata information into the spreadsheet in response to a reception of the metadata information.

4.   A method for generating metadata objects, said method comprising:

displaying a spreadsheet including metadata information and one or more metadata directives therein; and

providing a command to trigger a conversion of the spreadsheet into a comma separated value file.

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5.   The method of claim 4, further comprising:

converting the spreadsheet into the comma separated value file in response to an activation of the command; and

parsing the comma separated value file in accordance with the one or more metadata directives to thereby generate the metadata objects from the metadata information.

6.   The method of claim 4, further comprising:

inputting the metadata information into the spreadsheet in response to a reception of the metadata information; and

inputting the one or more metadata directives into the spreadsheet in response to a reception of the one or more metadata directives.

7.   A computer for generating metadata objects, said computer comprising:
        means for displaying a spreadsheet including metadata information therein; and
        means for providing a command to trigger a conversion of the spreadsheet into a comma separated value file.

8.   The computer of claim 7, further comprising:
        means for converting the spreadsheet into the comma separated value file in response to an activation of the command; and
        means for parsing the comma separated value file to thereby generate the metadata objects from the metadata information.

9.   The computer of claim 7, further comprising:
        means for inputting the metadata information into the spreadsheet in response to a reception of the metadata information.

10.   A computer for generating metadata objects, said computer comprising:

means for displaying a spreadsheet including metadata information and one or more metadata directives therein; and

means for providing a command to trigger a conversion of the spreadsheet into a comma separated value file.

11.   The computer of claim 10, further comprising:

means for converting the spreadsheet into the comma separated value file in response to an activation of the command; and

means for parsing the comma separated value file in accordance with the one or more metadata directives to thereby generate the metadata objects from the metadata information.

12.   The computer of claim 10, further comprising:

means for inputting the metadata information into the spreadsheet in response to a reception of the metadata information; and

means for inputting the one or more metadata directives into the spreadsheet in response to a reception of the one or more metadata directives.

13.   A computer program product in a computer readable medium for generating metadata objects, said computer program product comprising:

computer readable code for displaying a spreadsheet including metadata information therein; and

computer readable code for providing a command to trigger a conversion of the spreadsheet into a comma separated value file.

14.   The computer program product of claim 13, further comprising:

computer readable code for converting the spreadsheet into the comma separated value file in response to an activation of the command; and

computer readable code for parsing the comma separated value file to thereby generate the metadata objects from the metadata information.

15.   The computer program product of claim 13, further comprising:

computer readable code for inputting the metadata information into the spreadsheet in response to a reception of the metadata information.

16.   A computer program product in a computer readable medium for generating metadata objects, said computer program product comprising:

computer readable code for displaying a spreadsheet including metadata information and one or more metadata directives therein; and

computer readable code for providing a command to trigger a conversion of the spreadsheet into a comma separated value file.

17.   The computer program product of claim 16, further comprising:

computer readable code for converting the spreadsheet into the comma separated value file in response to an activation of the command; and

computer readable code for parsing the comma separated value file in accordance with the one or more metadata directives to thereby generate the metadata objects from the metadata information.

18.   The computer program product of claim 16, further comprising:

computer readable code for inputting the metadata information into the spreadsheet in response to a reception of the metadata information; and

computer readable code for inputting the one or more metadata directives into the spreadsheet in response to a reception of the one or more metadata directives.

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Evidence Appendix

None

Related Proceedings Appendix

None.